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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,408	07/26/2001	Lionel Cassin	15235.007	4274
28381 7590 12/18/2008 ARNOLD & PORTER LLP ATTN: IP DOCKETING DEPT. 555 TWELFTH STREET, N.W. WASHINGTON, DC 20004-1206				
EXAMINER PENG, FRED H				
ART UNIT 2426		PAPER NUMBER		
MAIL DATE 12/18/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/912,408

Applicant(s)

CASSIN ET AL.

Examiner

FRED PENG

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 148-157 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 148-157 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/09/2008 has been entered.

DETAILED ACTION

Response to Arguments

2. Applicant's arguments filed 08/15/2008 have been fully considered but they are not persuasive.

Applicant argues on pages 4 and 5 of Remarks dated on 08/15/2008 that the cited reference Hunter does not teach "wherein said enabling is carried out by a processor based device".

The Examiner respectfully disagrees with applicant's arguments. Even though the predetermined time of enabling is determined by the user, the enabling is eventually is carried out by the processor of the device.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 148-157 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al (US 2002/0056118).

Claim 148, Hunter discloses a method of implementing a media content delivery and playback scheme (Para 0012); the method comprising the steps of:

receiving media content which is delivered asynchronously via a communication channel (Para 0012); and

enabling the playback of said media content at a predetermined time after said step of receiving media content (Para 13 lines 38-42; said playback is only enabled when get special discount on daily or weekly basis after media content is received and recorded),

wherein said enabling is carried out by a processor based device (said enabling of media content is eventually carried out by a processor based device as shown in FIG.2 once selected by the user).

Claim 149, Hunter further discloses the step of detecting the media content at the predetermined time (Para 121 – Para 122).

Claim 150, Hunter further discloses the step of providing a notification of receipt of the media content (Para 139).

Claim 151, Hunter further discloses said playback is enabled only after a predetermined time after the receipt of said media content (Para 117; playback is enabled only at night after receipt of said media content at afternoon).

Claim 152, Hunter further discloses asynchronous delivery of said media content is controlled by a first processor of a first device (FIG.23, element 600; set-top box receives and delivers the content) and said playback of said media content is controlled by a second processor of a second device (element 610; for playback control).

Claim 153, Hunter further discloses said playback of media content is enabled in said second device at a first predetermined time after said delivery of said media content (FIG.23; user controls playback of content at night, a first predetermined time).

Claim 154, Hunter further discloses said media content may not be detectable by a user of said second device until said predetermined time (Para 117 lines 5-13; the movie is not available until night indicates content may not be detectable by a user of said second device until said predetermined time).

Claim 155, Hunter further discloses said delivery of said media content from said first device to said second device is controlled in accordance with a digital rights management scheme (Para 193 – Para 200).

Claim 156, Hunter further discloses said first device and said second device are coupled by said communication channel (FIG.23, Digital Data between elements 600 and 610).

Claim 157, Hunter further discloses said first device and said second device are implemented in computer systems (FIG.23, elements 600 and 610 are implemented in computer systems).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng
Patent Examiner

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/Annan Q Shang/
Primary Examiner, Art Unit 2424